

"'33 Act Claims Arbitrable, Divided Supreme Court Says" Tax Management Financial Planning Journal May 30, 1989 V.5 N.11 pp. 243(1) This article presents a discussion of the U.S. Supreme Court decision that a predispute arbitration agreement is enforceable with respect to claims arising under the Securities Act of 1933. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES

"1989 Directory of Alternative Dispute Resolution Services in Los Angeles County" Los Angeles Lawyer February, 1989 V.12 N.1 S1-S10 The author gives a brief introduction to the ADR process and provides an alphabetical index and subject index of ADR agencies and organizations in the Los Angeles area. ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ OMBUDSPERSON

"ACAS Charts Change in Industrial Relations" (Advisory, Conciliation and Arbitration Service Annual Report) IRS Employment Trends May 23, 1989 V.440 p. 3 A capsule of the Advisory, Conciliation and Arbitration Service (ACAS) annual report, which summarizes its view of industrial relations developments during the year and provides a factual record of the service's conciliation, arbitration, mediation, and advisory work. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

A Comment on the Rules of the Society of Maritime Arbitrators, Inc." (New York) Journal of Maritime Law and Commerce April, 1989 V.20 N.2 pp. 199-203 This article discusses the functioning and rules of the Society of Maritime Arbitrators, a professional non-profit organization active in maritime arbitration in New York. ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR

"Applicability of Arbitration to Audit Engagements" Journal of Accountancy December, 1989 V.168 N.6 p. 28 This article is an analysis of a recent California Court of Appeals decision holding that an agreement for a binding audit was not equivalent to an agreement to arbitrate. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB

## *JOURNAL ON DISPUTE RESOLUTION*

AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER:  
COMMERCIAL

"Arbitration Law and Practice" (book review) Solicitors Journal May 5, 1989 V.133 N.18 p. 589 The book deals with difficult problems one may have to answer when advising on arbitration. ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

"Arbitration Agreement Encompassed in Federal Securities Claims" Tax Management Financial Planning Journal May 2, 1989 V.5 N.9 pp. 191(1) The U.S. District Court for Southern Florida held that 2 investors must arbitrate their securities fraud claims against a brokerage even though the predispute agreement preserved a right to a judicial forum under certain circumstances. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: SECURITIES

"Arbitration Continues to be a 'Hot' Issue" Tax Management Financial Planning Journal March 7, 1989 V.5 N.5 pp. 98(2) This recent development note highlights two cases: the first focuses on the Supreme Court's decision to hear oral arguments in the Rodrigues de Quijas v. Shearson/American Express, Inc. case, and the second focuses on the U.S. District Court for New Jersey's decision in Willis v. Rubiera-Zim to compel arbitration of a section 10(b) complaint under the 1934 Securities and Exchange Act. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: CORPORATE

"Arbitration Model in Canada" (book review) New York University Journal of International Law and Politics January, 1989-Winter V.21 N.2 pp. 434-435 This is a discussion of arbitration as a means of resolving disputes in the context of international business transactions, focusing on international dispute resolution, commercial arbitration in the U.S., and the developing arbitration laws of Canada. SUBJ MATTER: INT'L/ CONFERENCE PROCEEDINGS/ LEGISLATION/ TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: COMMERCIAL

"Arbitration: Law, Practice and Precedents" Solicitors Journal January 20, 1989 V.133 N.3 p. 73 This article is an explanation of the basic features of arbitration law and practice, including statutory text and other rules. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/

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### TYPE OF SOURCE: BOOK REVIEW

"Arbitrators' Dismissal of Claims Not Subject to Review in Federal Court" Tax Management Financial Planning Journal October 17, 1989 V.5 N.21 p. 461 This is a news article discussing a U.S. Appeals Court decision which said that dismissal of an option investor's claim by an arbitration panel is not subject to federal court review. Federal courts will not "set aside an arbitrator's award for mere errors of law." ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES

"Arbitrators' Failure to Explain Does Not Require Award to be Vacated" Tax Management Financial Planning Journal May 30, 1989 V.5 N.11 pp. 244(2) This article is a discussion of a U.S. District Court for Kansas' decision which denied a plaintiff's motion to vacate portions of the award unfavorable to him because the court held the arbitrators' failure to explain an award in a securities dispute does not indicate that they "imperfectly executed" their duties or "acted in manifest disregard of the law." ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES

"Brokerage Bound by NASD Code Must Arbitrate Customer Dispute" Tax Management Financial Planning Journal June 27, 1989 V.5 N.13 pp. 283-284 This is a news article reporting a U.S. District Court for Southern Florida decision which stated that even though the parties did not enter into an arbitration agreement, a brokerage bound by the NASD code must arbitrate a consumer dispute if the consumer so demands. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ REQUIREMENTS: CONTRACTURAL CLAUSES/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"Brokerage Cannot Compel Arbitrations; Pre-McMahon Clause Given 'Plain Reading'" Tax Management Financial Planning Journal April 4, 1989 V.5 N.7 pp. 143-144 The U.S. District Court for Northern Illinois decided that a clause excepting from arbitration any claim "for which a remedy may exist pursuant to an express or implied right of action under the federal securities laws" prevents the brokerage from compelling arbitration of an investor's claims under Section 10(b) of the 1934 Securities Exchange Act. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTURAL CLAUSES

## ***JOURNAL ON DISPUTE RESOLUTION***

"Clause Limiting Choice of Arbitrator is Unenforceable, SEC Contends"  
Tax Management Financial Planning Journal February 7, 1989 V.5  
N.3 pp. 63(2) This recent development note summarizes the SEC's  
arguments in its amicus curiae brief to the Sixth Circuit Court of Appeals  
(Roney & Co. v. Goren, No.88-1874 (6th Cir. 1988)) in which it contends  
that a broker-dealer's arbitration clause limiting arbitration to one forum is  
unenforceable under the 1934 Securities and Exchange Act. ARB:  
BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING  
AGREEMENT TO ARB/ SUBJ MATTER: PUBLIC POLICY/ SUBJ  
MATTER: SECURITIES

"Comment, Alternative Dispute Resolution in Complex Litigation"  
University of Missouri-Kansas City Law Review V.57 p. 839 An  
overview of dispute resolution methods, including the summary jury trial,  
minitrials, and court-annexed arbitration. ARB: MANDATORY,  
COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE  
SYSTEM- GENERAL/ NON-BINDING RECOMMEDATION PROC-  
SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION  
PROC- MINITRIAL

"Court Nullifies Massachusetts Rules Barring Use of Mandatory  
Arbitration Clauses" Tax Management Financial Planning Journal  
January 10, 1989 V.5 N.1 p. 20 This recent development note  
briefly summarizes a U.S. District Court's decision to nullify  
Massachusetts regulations barring broker-dealers from including mandatory  
arbitration clauses in customer agreements. ARB: BINDING ARB-  
GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER:  
GOV'T/ SUBJ MATTER: SECURITIES/ REQUIREMENTS:  
CONTRACTURAL CLAUSES/ LEGISLATION

"Court Refuses to Compel Arbitration Where Contract Reserved Judicial  
Forum" Tax Management Financial Planning Journal May 30, 1989  
V.5 N.11 pp. 243(2) This article presents a discussion of the U.S.  
District Court for Kansas' decision that refused to compel arbitration for  
1934 Securities Exchange Act 10(b) claims where the pre-dispute  
agreement specifically reserved the right to litigate such claims. ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER:  
SECURITIES

"Court Says Clause Does Not Require Arbitration of '33, '34 Claims"  
Tax Management Financial Planning Journal April 4, 1989 V.5 N.7  
p. 143 The District Court for Southern New York held that a clause in a  
broker-customer agreement providing for the arbitration of future disputes



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does not require the customer to arbitrate his 1933 Securities Act and 1934 Securities Exchange Act claims against the brokerage. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTURAL CLAUSES

"Current Developments Concerning the Settlement of Disputes Involving States By Arbitration and the World Court" (includes discussion) American Society of International Law Proceedings January, 1989 - Annual pp. 568-589 A panel discussion regarding the finality of ICSID arbitration awards and the position of the United States in the International Court of Justice (ICJ). ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ LEGISLATION/ SUBJ MATTER: GOV'T

"Customers Must Arbitrate Before Previously-Agreed Upon Forum" Tax Management Financial Planning Journal November 14, 1989 V.5 N.23 p. 508 A New York federal district court held securities customers to the terms of customer agreements which limit the forums available for arbitration of disputes with the brokerage companies. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTURAL CLAUSES

"D.C. Students Learn to Mediate Their Disputes" Washington Lawyer November, 1989 V.4 N.2 p. 14 This article describes how high school students were taught about mediation and arbitration and how these students appreciated the process for their own personal disputes. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING

"Decentralised Bargaining in Perspective" (Great Britain) IRS Employment Trends November 7, 1989 V.451 pp. 11(4) An examination of the move towards a decentralized system of pay determinations, where negotiations take place on the level of a business unit, profit centre or plant. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS

"Developments in Multi-Employer Bargaining" (part 2) (Great Britain) IRS Employment Trends July 11, 1989 N.443 pp. 6-12 National pay bargaining is beneficial to British employers because it provides a flexible range within which to set pay and account for individual or local differences, it reduces competition, its dispute procedures prevent strikes and it increases efficient business operations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ COMPARISONS: CROSS-CULTURAL

"Divorce Mediation: How to Cut the Cost and Stress of Divorce" (book review) California Lawyer August, 1989 V.9 N.8 p. 73 Diane Newman, a divorce mediator, encourages people getting a divorce to use mediation by claiming that going to court costs twelve times as much and takes six times as long as a divorce handled through mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ ECONOMIC ADVANTAGES OF ADR

"Divorce Mediation and the Legal Process" (book review) Law and Social Inquiry January, 1989-Winter V.14 N.1 p. 212 This two sentence entry notes that Divorce Mediation and the Legal Process is a collection of essays which assesses alternative dispute resolution strategies in divorce while focusing on mediation and conciliation processes in Great Britain and the U.S.. TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ MED: RELATED PROCESSES-GENERAL

"Ethics on the Table: Stretching the Truth in Negotiations" Review of Litigation Spring, 1989 V.8 N.2 pp. 173-199 This article, through hypothetical situations, discusses the "ethical parameters on truthfulness and discloses in negotiations" as well as views concerning an imposition of fairness standard in negotiations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-FALSE DEMANDS/ SETTLEMENT: AUTHORITY/ CONFIDENTIALITY/ ETHICS: GENERAL/ FAIRNESS/ QUALITY CONTROL/ ROLE OF LAWYERS

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"High Court Vacates Judgment, Declines Review in Arbitration Cases" Tax Management Financial Planning Journal June 27, 1989 V.5 N.13 p. 282 A discussion of the Supreme Court decisions to vacate a decision and decline to review another because of its decision in Rodriguez de Quijas v. Shearson/American Express, Inc. that '33 Act claims could be arbitrated under predispute arbitration agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES

"Increase in Commercial Arbitration Cases" Law Office Economics and Management March 22, 1989 V.30 N.1 pp. 101-103 This article compares commercial arbitration to civil litigation, attributing the increase in arbitration to the shorter time to settle, and includes statistical documentation. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ ECONOMIC ADVANTAGES OF ADR

"International Arbitration: Three Salient Problems" (book review) Commonwealth Law Bulletin January, 1989 V.15 N.1 p. 347 A study examining three problems in international arbitration and establishing an arbitral tribunal: 1) the relationship between an arbitration clause and contract; 2) whether a refusal to arbitrate is a denial of justice under international law; and 3) the impact upon arbitration of withdrawal of a member of an arbitral tribunal. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ TYPE OF SOURCE: BOOK REVIEW/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L

"International Borrowing: Negotiating and Structuring International Debt Transactions" (book review) New York University Journal of International Law and Politics January, 1989 V.21 N.2 pp. 421(3) Book Review: this is a compilation of information and advice on international financing in the developing third worlds, including a discussion on negotiation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

"Investment Arbitration Agreement Does Not Cover ERISA Claims" Tax Management Financial Planning Journal May 2, 1989 V.5 N.9 p. 191 The US Court of Appeals for the 2nd Circuit decided that a profit-sharing plan trustee need not arbitrate a claim that a brokerage firm violated its fiduciary duties under the Employee Retirement Income Security Act connected with losses allegedly resulting from excess trading

of the plan's account. ARB: BINDING ARB- GENERAL/ INST  
NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ  
MATTER: SECURITIES/ JUDICIAL PARTICIPATION

"Labor Arbitration Advocacy: Effective Tactics and Techniques" (book review) Employee Relations Law Journal Winter, 1989 V.15 N.3 p. 478 The review states that this book emphasizes the practical techniques and tactics for successful labor arbitration advocacy. SUBJ  
MATTER: LABOR-GENERAL/ TYPE OF SOURCE: BOOK REVIEW

"Lender Liability - Out of the Frying Pan" Banking Law Journal March, 1989 V.106 N.2 p. 183 Proposals such as arbitration provisions and jury waivers in loan agreements to avoid juries in lender liability disputes are not always effective. ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL

"Major Operational Decisions and Free Collective Bargaining: Eliminating the Mandatory-Permissive Distinction" Harvard Law Review June, 1989 V.102 N.8 pp. 1971-1992 This article suggests that a single global duty of good faith should govern the negotiation of a collective bargaining agreement. NEG: USE OF BARGAINING TEAMS/ NEG: USE OF AGENTS/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: RENTAL HOUSING

"Massachusetts Arbitration Rules Preempted by Federal Act" Tax Management Financial Planning Journal October 17, 1989 V.5 N.21 p. 461 This is a news article reporting a First Circuit decision which stated that the Federal Arbitration Act preempts Massachusetts regulations barring broker-dealers from including mandatory arbitration clauses in their customer agreements. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTURAL CLAUSES

"McMahons Must Arbitrate Claims in Forum Selected by Shearson" Tax Management Financial Planning Journal May 2, 1989 V.5 N.9 pp. 190(2) The parties in McMahon v. Shearson/American Express Inc., 482 U.S. 220 (1987) (court-ordered arbitration), were involved in another dispute over the proper arbitration forum and the US District Court for Southern New York held the McMahons (investors) must arbitrate their

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claims in the forum chosen by Shearson under the customer agreement.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE

"Mediated Communication" (book review) Journal of Broadcasting & Electronic Media Summer, 1989 V.33 N.3 p. 345 The authors construct a theory of mediated communication based on the view that human life is so-constructed between self and others. TYPE OF SOURCE: BOOK REVIEW/ MED: RELATED PROCESSES-GENERAL

"Mediators Boost Funding for Michigan County Bar" Bar Leader Winter, 1989 V.15 N.1 p. 33 Details of the increase in funding for mediation at the county level in Michigan. MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL

"NASD Proposes Public Awards Disclosure as Part of Arbitration Program Revision" Tax Management Financial Planning Journal January 10, 1989 V.5 N.1 pp. 23-24 A look at proposed rule changes with the SEC (by the National Association of Securities Dealers) that would result in public disclosure of arbitration awards and more disclosures about arbitrators to streamline the association's arbitration process. ARB: PREPARATION/ SUBJ MATTER: SECURITIES

"Negotiating a Book Contract" (book review) California Lawyer March, 1989 V.9 N.3 p. 84 This book, written for lawyers and lay persons, provides information on creating an equitable book contract. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- ECONOMIC/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CONSUMER/ TYPE OF SOURCE: BOOK REVIEW

"Our Cover" (Rod DeArment, Deputy Secretary of Labor) Labor Law Journal November, 1989 V.40 N.12 p. COV A cover photo and biography of Rod DeArment, Deputy Secretary of Labor, appointed by President Bush in April 1989. SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL

"Partisans and Mediators: The Resolution of Divorce Disputes" (book review) Law and Society Inquiry Winter, 1989 V.14 N.1 p. 212

## ***JOURNAL ON DISPUTE RESOLUTION***

From studies of family conciliation services, court proceedings, and interviews with divorcing parties in Great Britain, Gwynn Davis concludes that a professional preoccupation with the pretrial termination of conflict is undermining the prospect of a genuinely noncoercive approach to legal process through the convergence of legal and nonlegal forms. MED:

RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ SETTLEMENT: PRESSURES TO SETTLE/ POWER IMBALANCE

"Qualifying Neutrals: The Basic Principles; Report of the Society of Professionals in Dispute Resolution (SPIDR) Commission on Qualifications" Arbitration Journal September, 1989 V.44 N.3 pp. 48-57 SPIDR's examination of the qualifications of arbitrators and mediators. MED: RELATED PROCESSES-GENERAL/ ARB:

MANDATORY, COURT-ANNEXED- GENERAL/ ETHICS: GENERAL/ ORGANIZATION POLICIES AND RULES/ QUALITY CONTROL

"Rent-a-Judge System Works; Private Courts Should be Expanded So Poor and Rich Alike Can Avoid Public Courts" (from the Orange County Register) The Los Angeles Daily Journal December 15, 1989 V.102 N.250 p. 6/c. 1 The author heralds the rent-a-judge system as a panacea for the present inequitable judicial process. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ FAIRNESS/ JUDICIAL PARTICIPATION

"SEC Approves Arbitration Summaries, Other Revisions to Industry Programs" Tax Management Financial Planning Journal June 27, 1989 V.5 N.13 pp. 282-283. This is a news article describing SEC changes which make summarized arbitration award statements public, as well as other rule changes relating to the arbitration process. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ REQUIREMENTS: CONTRACTURAL CLAUSES/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"Second Addendum to Legal Opinions to Third Parties: An Easier Path" The Business Lawyer February, 1989 V.44 N.2 pp. 563-574 In this note, the Tri-Bar Opinion Committee discusses whether an arbitration clause in a contract will be respected in court and, therefore, enforceable. It discusses factors attorneys should consider when advising a client on the usefulness of an arbitration clause. ARB: BINDING ARB-

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"Securities Arbitration: Procedures, Strategies, Cases" Bench and Bar of Minnesota May, 1989 V.46 N.5 p. 14 An examination of the use of arbitration to resolve securities issues. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ ARB: FINAL OFFER ARB/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

"SIA Asks High Court to Affirm arbitrability of Section 12(2) Claims" Tax Management Financial Planning Journal May 2, 1989 V.5 N.9 pp. 192(2) The Securities Industry Association and certain brokerage firms filed an amicus curiae brief with the Supreme Court urging an affirmation of an appeals court decision that claims under the 1933 Securities Act Section 12(2) may be arbitrated in accordance with a valid predispute arbitration agreement. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ JUDICIAL PARTICIPATION

"Steering Committee Report" (American Law Institute Study on Paths to a 'Better Way'; Litigation, Alternatives and Accommodation) Duke Law Journal September, 1989 V.1989 N.4 pp. 811-823 This article discusses the ALI's recommendations which point to promising paths to a better way to render justice with reasonable speed, efficiency, humaneness, and accuracy. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM/ ETHICS: GENERAL/ FAIRNESS/ JUDICIAL PARTICIPATION

"Supreme Court Orders Remand on Validity of Private Agreement to Arbitrate ERISA Claims in Securities Suit" Tax Management Compensation Planning Journal December 1, 1989 V.17 N.12 pp. 303 The U.S. Supreme Court requested the Second Circuit to reconsider its decision that securities claims are subject to arbitration under a private

agreement, but ERISA claims are not subject to arbitration under the same agreement. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING

"The Construction Arbitration Handbook" (book review) Santa Clara Law Review Winter, 1989 V.29 N.1 p. 274 The book covers all aspects of arbitration (including the formation of an arbitration clause, the actual arbitration process, the historical development of arbitration, the prominent role of arbitration in the construction industry and the enforceability of arbitration agreements) required for an understanding of what is essential to the practitioners of construction law since almost all modern construction contracts include an arbitration clause. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: BOOK REVIEW/ REQUIREMENTS: CONTRACTURAL CLAUSES/ COMPLIANCE ISSUES

"The Interest Group on Avoidance and Resolution of International Economic Disputes" American Society of International Law Proceedings April, 1989 pp. 152-154 A well-functioning trade system may be achieved and maintained through alternative methods of resolving disputes as outlined within GATT procedures. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: MANDATE TO USE/ DISPUTE PREVENTION/ LEGISLATION

"The Modern Grievance Procedure in the United States" (book review) Industrial Relations Law Journal Spring, 1989 V.11 N.1 p. 132 The reviewer reports that the book is a study of unionized grievance procedures in four major industries and involves an evaluation of strengths and weaknesses of grievance procedure, expedited arbitration, and grievance mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW

The World Arbitration Reporter, vols. 1-2 American Journal of International Law April 1989 V.83 N.2 p. 451 This four-volume



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reporter explains the underlying views and the way arbitrations work in various nations. The volumes further provide the different rules, agreements, and conventions governing nations in arbitrating disputes.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

"U.S. Supreme Court Hears Debate on Arbitration of '33 Act Claims" Tax Management Financial Planning Journal May 2, 1989 V.5 N.9 pp. 191-192 The US Supreme Court heard arguments in a review of a Fifth Circuit holding that claims arising under § 12(2) of the 1933 Securities Act are within the scope of a predispute arbitration agreement.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTURAL CLAUSES

"UNCITRAL Arbitration Model in Canada" (book review) New York Journal of International Law and Politics Winter, 1989 V.21 N.2 pp. 434-435 This is a discussion of arbitration as a means of resolving disputes in the context of international business transactions, focusing on international dispute resolution, commercial arbitration in the United States, and the developing arbitration laws of Canada. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ CONFERENCE PROCEEDINGS/ LEGISLATION

"Unions Explore "Single Table" Bargaining (Great Britain) IRS Employment Trends June 13, 1989 N.441 pp. 3-4 A report on the findings of a study regarding "single table" bargaining, a process whereby employers negotiate with multiple unions as a single unit. The advantages and disadvantages of such a process are summarized from both the employer's and union's position. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

Aaron, Benjamin "Catalyst: The National War Labor Board of World War II" (An Oral History of the National War Labor Board and Critical Issues in the Development of Modern Grievance Arbitration) Case

Western Reserve Law Review Winter, 1989 V.39 N.2 pp. 519-543  
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## ***JOURNAL ON DISPUTE RESOLUTION***

OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: TOXIC TORTS/ COMPARISONS: HISTORICAL

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NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- ECONOMIC/  
NEG: USE OF AGENTS/ INST NATURE: JUSTICE SYSTEM-  
SMALL CLAIMS COURTS/ INST NATURE: PRIVATE,  
PROFIT-MAKING/ SUBJ MATTER: CORPORATE/ SUBJ MATTER:  
SECURITIES/ TYPE OF SOURCE: CASE STUDY / RESEARCH  
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**Bush, Robert A. Baruch** "Defining Quality in Dispute Resolution: Taxonomies and Anti-Taxonomies of Quality Arguments" (Quality of Dispute Resolution Symposium Issue) Denver University Law Review Spring, 1989 V.66 N.3 pp. 335-380 The author proposes that, in order to evaluate the quality of dispute resolution programs, a definition of quality as it relates to the dispute process must be established. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ QUALITY CONTROL

**Bush, Robert A. Baruch** "Dedication: Thompson G. Marsh" Denver University Law Review Spring, 1989 V.66 N.4 p. VIII The author explores definitions of "quality" in alternative dispute resolution and arrives at several different definitions such as: individual satisfaction, individual autonomy, social control, social justice, social solidarity and personal transformation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/



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ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:  
BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ ETHICS:  
GENERAL/ FAIRNESS/ QUALITY CONTROL

**Bush, Robert A. Baruch** "Efficiency and Protection, or Empowerment and Recognition? The Mediator's Role and Ethical Standards in Mediation" Florida Law Review Spring, 1989 V.41 N.2 pp. 253-286 This article encourages legislators, practitioners, academics, and others concerned with the issue of uniform standards for mediators, to reflect on one fundamental question before committing to a specific set of standards - "what general conception of the mediation process and the mediator's role should govern that set of standards ?" NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: OPENING AND SETTING GUIDELINES

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**Carbonneau, Thomas E.** "American and Other National Variations on the Theme of International Commercial Arbitration" Georgia Journal of International and Comparative Law Summer, 1989 V.18 N.2 pp. 143-238 This article assesses the exemplary dispute resolution value and law-making capability of the international commercial arbitration process.  
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MATTER: LABOR-GENERAL/ SUBJ MATTER:  
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HISTORICAL

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SYSTEM- APPELLATE COURTS/ SUBJ MATTER: INT'L/ ARB:  
JUDICIAL REVIEW

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Determine Threshold Issue Whether Valid Contract to Arbitrate Exists. Deferential Standard of Review Rejected; Court Must Undertake De Novo Review" University of Baltimore Law Review Spring, 1989 V.18 N.3 pp. 601-612 This case note discusses the holdings of Stephen L. Messersmith v. Barclay Townhouse Associates, 313 Md. 652, 547 A.2d 1048 (1988), which are 1) absent an arbitration agreement between the parties, an arbitration panel cannot validly assert jurisdiction to decide a dispute between them; and 2) the proper procedure for reviewing a jurisdictional challenge to an arbitration award is to conduct a de novo review to determine whether an agreement existed, giving no deference to views expressed by the arbitration panel. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTURAL CLAUSES/ AGREEMENT ON PROCEDURE ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SETTLEMENT: AUTHORITY/ AGREEMENT ON PROCEDURE/ COURT REFORM/ LEGISLATION

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**Feder, David L.** "Pick a Forum - Any Forum: A Proposal For a Federal Dispute Resolution Board" Labor Law Journal May, 1989 V.40 N.5 pp. 268-280 The author examines the overlap of administrative precedents to address labor disputes involving governmental employees, and suggests a new comprehensive approach to remedy the ineffectiveness of the current system. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR-GENERAL/ SELECTION OF APPROPRIATE PROCESS

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MATTER: INT'L/ FAIRNESS

**Goucher, Mark A.** "Recent Developments: The Uniform Arbitration Act" Journal of Dispute Resolution January, 1989 (Annual) V.1989 pp. 237-307 The author provides a survey of recent case law developments interpreting the various state versions of the Uniform Arbitration Act. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: DRAFTING ARB AGREEMENT/ 3RD PARTY: SELECTION/ ISSUE & CLAIM PRECLUSIVE EFFECTS/ JUDICIAL PARTICIPATION

**Gould, William B., IV** "Judicial Review of Labor Arbitration Awards - Thirty Years of the Steelworkers Trilogy: The Aftermath of AT&T and Misco" Notre Dame Law Review Fall, 1989 V.64 N.4 pp. 464(32) An analysis of judicial review of labor arbitration awards since the passage of the National Labor Relations Act and the decisions by the U.S. Supreme Court in the Steelworkers Trilogy, including an examination of the AT&T and Misco decisions and a discussion of issues that remain unresolved. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ INST NATURE: JUSTICE SYSTEM-APPELLATE COURTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ JUDICIAL PARTICIPATION

**Gould, William B., IV** "Reflections on Workers' Participation, Influence and Powersharing: The Future of Industrial Relations" (Symposium: Beyond Collective Bargaining and Employment at Will). University of Cincinnati Law Review Fall, 1989 V.58 N.2 pp. 381-395 An analysis of American labor-management relations, with the prediction that the adversarial labor-management model will give way to more industrial democracy at all levels of the employment relationship. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ POWER IMBALANCE

**Grad, Frank P.** "Alternative Dispute Resolution in Environmental Law" Columbia Journal of Environmental Law Winter, 1989 V.14 N.1 pp. 157-85 The author describes an overview of the use of ADR



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**Grant, J. Kirkland** "Securities Arbitration: Is Required Arbitration Fair to Investors?" New England Law Review Winter, 1989 V.24 N.2 pp. 389-535 The article examines the use of arbitration in the securities industry both pre-McMahon and post-McMahon and makes some recommendations to prevent review of arbitration agreements by the courts, regulators or even legislative action. ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES

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**Gray, Tim** "IRS Office of Appeals: A Dispute Resolution Profile" Tax Notes September 25, 1989 V.44 N.13 pp. 1466-1467 "IRS Appeals" helps taxpayers resolve their tax disputes without having to resort to litigation. SUBJ MATTER: TAX/ MED: RELATED PROCESSES-GENERAL

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**Greatbatch, David; Dingwall, Robert** "Selective Facilitation: Some Preliminary Observations on a Strategy Used by Divorce Mediators"

Law & Society Review November, 1989 V.23 N.4 pp. 613-641  
The author discusses whether or not mediators are neutral in the use of mediation in resolving disputes of divorcing couples. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: NEUTRALITY/ MED: REP OF A CLIENT DURING PROCESS

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**Guccione, Jean** "ABA Panel Says Arbitration is 'Pacific' Way; Litigation is Too Costly and Slow to Meet Rim Needs; A 'Peaceful' Approach" The Los Angeles Daily Journal August 10, 1989 V.2 N.159 p. 1/c. 6 This article stresses the need for the 'Pacific Rim' countries involved in commercial business to turn to international arbitration in order to reduce cost, to promote efficiency, and to promote good business relations while resolving disputes. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR

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**Guccione, Jean** "Mediation and Pretrial Diversion Hinder Domestic Violence Victims, Experts Say" The Los Angeles Daily Journal February 1, 1989 V.102 N.3 p. 21/c. 1 A newspaper article covering public hearing on gender bias at which experts argued that mandatory mediation in child custody cases should not be used when domestic violence exists. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

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**Guill, James L.; Slavin, Edward A., Jr.** "Rush to Unfairness: The Downside of ADR" Judges Journal Summer, 1989 V.28 N.3 pp. 8(11) The author compares ADR to traditional litigation and criticizes the fairness of ADR. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: CIVIL RIGHTS/ ETHICS: GENERAL

**Guimera, Joseph E.** "Put Away Your Arrows: Arbitration Can Help You Reach Agreement Without Legal Battles" Real Estate Today November-December 1989 V.10 p. 26 A profile of the application of various dispute resolution devices, primarily arbitration, to potential disputes in the real estate industry. ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: RENTAL HOUSING

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**Halpern, Adrian Rafael** "The U.S.-EC Hormone Beef Controversy and the Standards Code: Implications for the Application of Health Regulations to Agricultural Trade" North Carolina Journal of International Law and Commercial Regulation Winter, 1989 V.14 N.1 pp. 135-55 This article explores the economic repercussions resulting from the European Community's decision to ban the import of U.S. beef treated with growth hormones and examines the Agreement on Technical Barriers to Trade as a mechanism for resolving the dispute. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: FARM/ SUBJ MATTER: INT'L/ LEGISLATION

**Hamilton, Katherine J.** "Litigation Timeline; Calculating the Five-Year Date After Arbitration" (California) Los Angeles Lawyer December, 1989 V.12 N.9 pp. 8-11 This article examines the statutory scheme for court-ordered arbitration in the California Code of Civil Procedure, concentrating on several California Court's differing interpretation of the five year date set out in § 583(b) of the California Code of Civil Procedure. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ COURT REFORM/ FISS/ JUDICIAL PARTICIPATION/ LEGISLATION

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**Administrative Settlements by Ensuring Mediator Confidentiality"**  
Administrative Law Review Summer, 1989 V.41 N.3 pp. 315-64  
This article analyzes how ensuring mediator confidentiality produces positive effects upon administrative settlements. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY/ CONFIDENTIALITY

**Hartridge, David; Subramanian, Arvind** "Intellectual Property Rights: The Issues in GATT" (Symposium: Trade-Related Aspects of Intellectual Property, part 2) Vanderbilt Journal of Transnational Law October, 1989 V.22 N.4 pp. 893(18) While the author deals largely with international intellectual property rights, the article does include discussion on dispute settlement between governments over public international legal obligation in connection with intellectual property rights. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ SUBJ MATTER: INT'L

**Hartsfield, William E.** "Settlements With Employees" (Texas) Texas Bar Journal April, 1989 V.52 N.4 pp. 402-405 This article describes things to be concerned with when settling disputes with employees in Texas including identification of the parties, the subject of the dispute, consideration given by either side, and mutual releases. SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE

**Hathaway, Harry L.** "Doubts About Private Judging; The Judicial System Must Ensure Fundamental Fairness for All" Los Angeles Lawyer November, 1989 V.12 N.8 pp. 5(2) This article takes the position that the private judging system is not the saving grace of the judicial system and concludes that all people should stand as equals within the judicial system. Further, the private judging system prevents this equality because those who can afford a private judge get "faster justice" while others must wait in the judicial system. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: PRIVATE JUDGING/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS

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**Hawley, Victoria** "Who is Listening to Me? The Role of Children in Custody Mediation" Advocate (Idaho) March, 1989 V.32 N.3 pp. 12(2) The article provides an overview of mediation while addressing the needs of children in the divorce process and how their insight is useful in creating lasting solutions. MED: RELATED PROCESSES- GENERAL/ MED: COUNSELING/ MED: DRAFTING SETTLEMENT AGREEMENTS/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: FAMILY (DOMESTIC REL)

**Hayes, John Charles** "Management Decision to Close Plant and Relocate Operations Not a Mandatory Subject of Bargaining" Boston College Law Review December, 1989 V.31 N.1 pp. 128-139 The author examines the case of Arrow Automotive Industries v. NLRB, criticizing its holding and reasoning. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL

**Hennington, Boyett Judson, III** "Computer Arbitration: Taking the Byte Out of Data Processing Disputes" Cumberland Law Review Spring, 1989 V.19 N.2 pp. 279-308 The use of arbitration clauses in the resolution of data processing contracts provides many advantages over resolution of such disputes by litigation including speed of resolution, maintenance of good will, protection of confidential information and the expertise of the arbitrator. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: SCIENCE & TECHNOLOGY

**Hensler, Deborah R.** "Resolving Mass Toxic Torts: Myths and Realities" (Symposium: Conflict of Laws and Complex Litigation Issues in Mass Tort Litigation) University of Illinois Law Review Winter, 1989 V.1 pp. 89-104 A discussion of the traditional tort approach to resolving mass toxic torts- trial, with a comparison to other resolution mechanisms such as arbitration, judicial settlement conferences, and bilateral bargaining, and the standards used to judge the use of aggregate settlement procedures. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ SUBJ MATTER: TOXIC TORTS/ SETTLEMENT: AUTHORITY/ AGREEMENT ON PROCEDURE

**Hern, Jane; Westcott, John** "Conciliation and Legal Practitioners" (Conciliation Project Unit report in Great Britain) Family Law July, 1989 V.10 pp. 280-282 An evaluation of conciliation as utilized to resolve family disputes, with suggestions for those lawyers who handle family dispute cases. MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ROLE OF LAWYERS/ MED: ENCOURAGING COMM AND NEG

**Herrington, William C.** "In the Realm of Diplomacy and Fish: Some Reflections on the International Convention on High Seas Fisheries in the North Pacific Ocean and the Law of the Sea Negotiations" (Symposium: Japan, the United States, and Pacific Ocean Resources) Ecology Law Quarterly February, 1989 V.16 N.1 pp. 101-118 A discussion of the negotiation and implementation of the 1953 Convention for the High Seas Fisheries of the North Pacific Ocean. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME

**Hexter, Christopher T.** "Judicial Review of Labor Arbitration Awards: How the Public Policy Exception Cases Ignore the Public Policies Underlying Labor Arbitration" Saint Louis University Law Journal Fall, 1989 V.34 N.1 pp. 77-109 This article discusses how the rule of public policy exception undermines collective bargaining. In general, it discusses labor arbitration in the collective bargaining process. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY

**Hiatt, David P.** "A Sour Lemon? Federal Preemption of Lemon Law Regulations of Informal Dispute Settlement Merchandising" Journal of Dispute Resolution January, 1989-Annual pp. 211-223 The Magnuson-Moss Warranty Act's provisions requiring use of dispute resolution procedures preempts state lemon laws specifying state dispute resolution standards. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ SUBJ MATTER: CONSUMER/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

**Hill, Charlotte M.** "The Arbitrator's Response to Dismissal of Alcoholic Employees: Do Violations of the 'Last Chance' Agreement Constitute 'Just Cause' for Dismissal?" (Fourth Annual Labor Law Symposium) Detroit College of Law Review Fall, 1989 V.1989 N.3



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pp. 1213-1233 This article suggests ways in which an arbitrator may deal with the dismissal of an alcoholic from the workplace and how an arbitrator should define just cause in an alcohol-related dismissal. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ REQUIREMENTS: CONTRACTUAL CLAUSES/ DISPUTE PREVENTION

**Hill, Marvin** "Traditional and Innovative Remedies in Arbitration: Punitive Awards, Interest, and Conditional Remedies" Whittier Law Review Fall, 1989 V.11 N.3 pp. 617-637 The author explores the authority of the arbitrator to offer punitive damages, interest, and conditional remedies for relief of a collective bargaining violation. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ LEGISLATION

**Hinchey, John W.** "Arbitration Evolves to Meet the Times" Compleat Lawyer Fall, 1989 V.6 N.4 pp. 40(3) A short article which presents an overview of alternative dispute resolution and changes in ADR and litigation, as each takes on characteristics of the other. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ MED: RELATED PROCESSES-GENERAL / SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY

**Hinchey, John W.** "Arbitration Requires a Savvy Lawyer" Compleat Lawyer Summer, 1989 V.6 N.3 pp. 25(2) The article points out that the skills required for good lawyering are needed equally in the arbitration process, including knowledge of rules and effective presentation of the case before the arbitrator. ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ ROLE OF LAWYERS

**Hinchey, John W.** "The Contract - the First Chance for ADR" Compleat Lawyer Winter, 1989 V.6 N.1 pp. 46(2) The author outlines the reasons for discussing ADR at the negotiation stage of contract formation. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ AGREEMENT ON PROCEDURE/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

**Hinchey, John W.** "When ADR May Not Work" Compleat Lawyer Spring, 1989 V.6 N.2 pp. 36(2) The author discusses six factors that should be considered before a lawyer can determine if arbitration is in the best interest of his/her client. ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ROLE OF LAWYERS

**Hines, Jonathan H.** "Dispute Resolution and Choice of Law in United States - Soviet Trade" Brooklyn Journal of International Law December, 1989 V.15 N.3 pp. 591-640 An examination into dispute resolution of trade agreements with the Soviet Union. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ 3RD PARTY: NEUTRALITY

**Hipgrave, Tony; French, David; Faithfull, Baroness** "The Way Forward" (Conciliation Project Unit Report in Great Britain) Family Law July, 1989 V.19 pp. 264-267 The authors review the system of family dispute resolution as practiced in England, comparing it to similar systems in New Zealand, and suggest the incorporation of conciliation services into the social policy of the country. MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: PUBLIC POLICY

**Hird, Gary M.** "Old Wine: Do We All Need the New Bottle?" Bench & Bar of Minnesota April, 1989 V.46 N.4 pp. 29-30 An analysis of the advantages of ADR in general and why ADR should be implemented at the local, district court level. MED: PSYCH FACTORS/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/ TEACHING

**Hoard, E. David; Lyons, Terrence M.** "Negotiating with Environmental Regulatory Agencies: Working Towards Harmony" (The Master Environmental Lawyer's Edition) Air Force Law Review Spring, 1989 V.31 pp. 201-23 This article discusses the important roles for both attorneys and technical specialists in negotiating agreements with federal and state environmental regulatory agencies. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND

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**Hoblin, Philip J., Jr.** "The Case for a Single Securities & Commodities Arbitration Forum" Commodities Law Letter August, 1989 V.9 N.6 pp. 3(4) A discussion of the defects of the present arbitration process for securities and commodities conflicts; the author proposes having one forum handling all arbitration rather than ten separate forums. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: SECURITIES/ COURT REFORM/ FISS/ ORGANIZATION POLICIES AND RULES/ PROVISIONAL REMEDIES

**Hector, David R.** "Techniques for the Resolution of Major Construction Contract Disputes" Public Utilities Fortnightly April 27, 1989 V.123 N.9 pp. 26(5) The author applies dispute resolution techniques to deciding cost of delays in construction contracts in public utilities. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: PUBLIC UTILITIES

**Hoffman, Morris B.** "The Constitutionality of Mandatory Arbitration" Colorado Lawyer March, 1989 V.18 N.3 pp. 455(3) This is a discussion of the constitutionality of Colorado's Mandatory Arbitration Act and comparative acts from other states. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: MANDATE TO USE/ SUBJ MATTER: CIVIL RIGHTS

**Hoekman, Bernard M.** "Determining the Need for Issue Linkages in Multilateral Trade Negotiations" International Organizations Autumn, 1989 V.43 N.4 pp. 693-714 To increase efficiency of multilateral trade negotiations, participants should investigate the potential for group negotiations and identify possible symbiotic relationships among group members. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL

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CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ ECONOMIC ADVANTAGES OF ADR

**Hoel, John Porter** "Labor Arbitration and State Wrongful Discharge Actions: Due Process or Remedial Double Dipping?" Journal of Dispute Resolution January, 1989 (annual) pp. 179-198 The author discusses the history of Section 301 of the Labor Management Relations Act, the preemptive doctrine, and the effects of the Act on individual states. NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION/ LEGISLATION

**Hoeniger, Berthold H.** "Tools to Tailor AAA Arbitration for Large, Complex Matters" Arbitration Journal March, 1989 V.44 N.1 pp. 15-26 The author encourages the adoption of supplemental rules for the American Arbitration Association's Commercial Arbitration rules. Such rules will expand the scope of the arbitration clause to ensure that all disputes are, in fact, covered by the agreement. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB

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**Kwon, Ik-Whan; Hine, Henry B.; Fetterman, James C.** "Medical Professional Liability: A Statistically Based Settlement Model" Medical Trial Technique Quarterly Spring, 1989 V.35 N.3 pp. 249-265 This article addresses the need to implement a mathematic model, based on probability analysis, in the decision-making process of an out-of-court settlement of medical professional liability to aid in dispute resolution. ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ ARB: FINAL OFFER ARB/ SUBJ MATTER: MEDICAL MALPRACTICE

**Lamb, Elizabeth T.** "Arbitration and Malpractice Avoidance" (legal malpractice) (Colorado) Colorado Lawyer May, 1989 V.18 N.5 pp. 905(4) This article reviews the Colorado Mandatory Arbitration Act Pilot Project and advises practitioners on methods to avoid malpractice claims regarding arbitration cases. REQUIREMENTS: STATUTORY OR RULES/ ARB: SELECTION OF ARBITRATOR/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: JUSTICE SYSTEM- GENERAL/ ARB: MANDATORY,

COURT-ANNEXED- TRIAL DE NOVO/ SUBJ MATTER: GENERAL/  
ECONOMIC ADVANTAGES OF ADR/ LEGISLATION/ ROLE OF  
LAWYERS

**Lambros, Thomas D.** "The Federal Rules of Civil Procedure: A New Adversarial Model for a New Era" University of Pittsburgh Law Review Spring, 1989 V.50 N.3 pp. 789-807 This article describes how the Federal Rules of Civil Procedure allow judges to manage cases and facilitate settlement using alternative methods of dispute resolution. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ MED: RELATED PROCESSES-GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ JUDICIAL PARTICIPATION/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL

**Lamm, Carolyn B.** "Recent Developments in International Arbitration" Federal Bar News & Journal June, 1989 V.36 N.6 pp. 276-279 The recent growth of international arbitration, especially in commercial disputes, is reviewed in this article; the growth has been coupled with the emergence of various new forums in which to arbitrate these international disputes. ARB: BINDING ARB- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES / SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ COURT REFORM/ JUDICIAL PARTICIPATION/ SUBPOENA AND DISCOVERY

**Lamm, Richard D.** "Lawyers and Litigation as a Factor in International Competitiveness" Colorado Lawyer May, 1989 V.18 N.5 pp. 831(2) The author discusses the social implications of ADR in the American legal system. ROLE OF LAWYERS/ ECONOMIC ADVANTAGES OF ADR

**Landau, Jeffrey M.** "Successorship Doctrine, the Courts and Arbitrators: Common Sense or Dollars and Cents?" (Special Topics in Labor Relations: The Role of Arbitration in Collective Bargaining Dispute Proceedings) University of Miami Law Review November, 1989 V.44 N.2 pp. 403-441 This article examines how arbitrators traditionally decide cases involving conflicting interests of the buyers and sellers of a business and the employees of the company that is being sold. ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ FAIRNESS

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**Larson, David Allen** "Trans World Airlines, Inc. v. Independent Federation of Flight Ateendants: A Fundamental Blow to Collective Bargaining" Missouri Law Review Fall, 1989 V.54 N.4 pp. 943-952 This article discusses how the TWA case, in allowing TWA to encourage junior strikers to return to work with the promise that they would not be displaced by senior full-time strikers at the end of the strike, damaged the collective bargaining process. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

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**Lax, David A.** "Commentary on 'Understanding Pennzoil v. Texaco': Market Expectations of Bargaining Inefficiency and Potential Roles for External Parties in Disputes Between Publicly Traded Companies" Virginia Law Review March, 1989 V.75 N.2 pp. 367-381 This article examines the settlement negotiations between Pennzoil and Texaco. Specifically, the article looks at the stock market as a measure of the expected bargaining inefficiency in significant negotiations between publicly traded companies and the effect of the agency problems faced by Texaco in the settlement negotiations. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS,

STRATEGIES AND TECHNIQUES- OTHER/ NEG: USE OF AGENTS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE

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**Lelewer, Joanne K.** "International Commercial Arbitration as a Model for Resolving Treaty Disputes" New York University Journal of International Law and Politics January, 1989 (Winter) V.21 N.2 pp. 379-402 The author describes how arbitration can allow countries to settle international controversies by applying law and judicial procedures. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON PROCEDURE

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**Leslie, Douglas L.** "Multiemployer Bargaining Rules" (Symposium on the Law and Economics of Bargaining) Virginia Law Review March, 1989 V.75 N.2 pp. 241(37) This article analyzes the Supreme Court case of Charles D. Bonanno Linen Service, Inc. v. NLRB and argues that the application of economic analysis of legal rules to labor law issues

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provides insight into how the courts should interpret the parties' behavior and which rules should be applied in the multiemployer setting. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ COURT REFORM/ POWER IMBALANCE

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Lester, Richard A. "Analysis of Experience Under New Jersey's Flexible Arbitration System" (Interest Arbitration in the Public Sector: A Look into the Mind of the Arbitrator) Arbitration Journal June, 1989 V.44 N.2 pp. 14(21) The author analyzes the New Jersey mediation-arbitration program from 1978 to 1987, concluding, based on interviews of participants, that the program has been effectively used. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ARB: FINAL OFFER ARB/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

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**Levine, David I.** "Early Neutral Evaluation: The Second Phase" Journal of Dispute Resolution January, 1989 V.1989 pp. 1-57 A follow-up evaluation of the Northern District of California's early case evaluation by neutral attorneys indicates that the program has succeeded in forcing parties to confront the merits of the parties' respective cases at the earliest stage possible, to develop an efficient discovery approach, and to consider settlement. NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE

**Levine, Tama L.** "Dispute Resolution in Worker's Compensation" (Colorado) Colorado Lawyer May, 1989 V.18 N.5 pp. 921(2) This article highlights the guidelines applicable to the "settlement conference" or "mediation option" available for resolution of certain types of worker's compensation cases. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL / SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

**Levy, Gerald M.** "Arbitration and Real Estate Disputes" Case & Comment November, 1989 V.94 N.6 pp. 12(4) The use of arbitration to settle real estate disputes is explored. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: RENTAL HOUSING/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS

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of Law and Education Spring, 1989 V.18 N.2 pp. 269-287 The author argues Ohio's State Employee Relations Board Statute merits emulation in its agency shop agreements and deferral to arbitration, but should not be emulated in the following areas: voluntary union certification, mandatory scope of bargaining, grandfathering and mixed motive discharging. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES / SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES

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Lissy, William E. "Employer's Liability for Defamation of Employee" Supervision November, 1989 V.50 N.12 pp. 18(3) A summary of three labor cases: one in which management had a duty to investigate the veracity of theft charges against a janitor, another where an employee could be required to take a typing test to get a promotion, and one where, an employee who refused to work after a break was deemed justly discharged by an arbitrator. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

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1988) decided union employees with a grievance could follow a pre-set grievance procedure as well as other avenues for remedies. SUBJ

MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SETTLEMENT: AUTHORITY

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**Lissy, William E.** "'Last Chance' Agreements and Arbitrators" Supervision May, 1989 V.50 N.5 pp. 19-21 "Last chance" agreements are an effective means to accomodate both the rights of an employee and the interests of management. INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: CONTRACTURAL CLAUSES/ FAIRNESS/ ORGANIZATION POLICIES AND RULES

**Lissy, William E.** "Remedies for Improper Distribution of Overtime Work" (Labor Law for Supervisors) Supervision September, 1989 V.50 N.10 pp. 17(3) In arbitration cases relating to the improper distribution of overtime work, remedies include payment for the missed overtime and redistribution of subsequent overtime opportunities. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ ORGANIZATION POLICIES AND RULES

**Lissy, William E.** "Reporting of Supervisors's Labor Action" (Labor Law for Supervisors) Supervision October, 1989 V.50 N.11 pp. 22(3) In a summary of 3 cases, one involving arbitration, an arbitrator decided that when an employee was suspended he was not eligible for overtime weekend hours. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT



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**Lobenthal, Nicholas W.** "The Arbitrability of ADEA Claims: Toward an Epistemology of Congressional Silence" Columbia Journal of Law and Social Problems Winter, 1989 V.23 N.1 pp. 69-114 An examination of policy and precedent to determine whether courts should enforce arbitration agreements covering claims arising under the Age Discrimination in Employment Act of 1967 (ADEA). ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: PRIVATE JUDGING/ SUBJ MATTER: LABOR-DISCRIMINATION/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ ETHICS: GENERAL

**Loewenberg, J. Joseph** "Act 111 of 1968 and the Pennsylvania Labor Relations Board" Labor Law Journal December, 1989 V.40 N.12 pp. 765-774 The author traces the Pennsylvania Labor Relations Board's (PLRB) relationship with Pennsylvania's Act 111 of 1968, focusing on its role in Act 111 procedures, the court's review of PLRB decisions and the effect of PLRB's involvement over the 1968-1987 period. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC POLICY/ LEGISLATION

**Loewenberg, J. Joseph** "A Different Approach to Comparative Industrial Relations Research" (The Role of Neutrals in the Resolution of Interest Disputes: An Eight Nation Study by the National Academy of Arbitrators' Overseas Correspondents) Comparative Labor Law Journal Spring, 1989 V.10 N.3 pp. 289(11) The author presents the results of a study of labor management disputes and the involvement of the National Academy of Arbitrators. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

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NON-BINDING RECOMMENDATION PROC- NEUTRAL  
FACT-FINDING/ ARB: BINDING ARB- GENERAL/ ARB:  
OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:  
SELECTION OF ARBITRATOR/ SUBJ MATTER: GENERAL/  
REQUIREMENTS: CONTRACTURAL CLAUSES/ SUBJ MATTER:  
COMMERCIAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER:  
INSURANCE/ SUBJ MATTER: INSURANCE/ SUBJ MATTER:  
INT'L/ REQUIREMENTS: STATUTORY OR RULES/  
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**Lowry, Houston Putnam** "International Commercial and Maritime Arbitration" (book review) Boston University International Law Journal V.7 N.1 pp. 227-228 This book consists of six short articles written by members of the field of law in England, including topics such as Commercial Arbitration since 1979, how the law of arbitration situs relates to arbitration itself, the liability of arbitrators, Soviet Maritime Arbitration, arbitration and the European Communities, and salvage arbitrations. SUBJ MATTER: GENERAL/ SUBJ MATTER: MARITIME/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

**Luban, David** "The Quality of Justice" (Quality of Dispute Resolution Symposium Issue) Denver University Law Review Spring, 1989 V.66 N.3 pp. 381-417 The author employs an unsystematic survey of proposals to determine the quality of justice afforded those who select alternatives to litigation to resolve disputes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED

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**Lynch, Dennis O.** "Deferral, Waiver, and Arbitration Under NRLA: From Status to Contract and Back Again" (Special Topics in Labor Relations: the Role of Arbitration in Collective Bargaining Dispute Proceedings) University of Miami Law Review November, 1989 V.44 N.2 pp. 237-339 An examination of the implications of the National Labor Relations Act rights and deferral to arbitration doctrines used by the National Labor Relations Board and federal courts on collective bargaining dispute resolution. ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTURAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

**Lynch, Dennis O.** "Statutory Rights and Arbitral Values: Some Conclusions" (Special Topics in Labor Relations: The Role of Arbitration in Collective Bargaining Dispute Proceedings) University of Miami Law Review November, 1989 V.44 N.2 pp. 617-642 The author examines five student notes that discuss the tension between a model of labor relations that embraces private ordering and one whose predominant policy is to foster statutory policies, and concludes that the National Labor Relations Board ought to narrow the deferral doctrine given this existing tension. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

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**Magnusen, Karl O.; Renovitch, Patricia A.** "Dispute Resolution in Florida's Public Sector: Insight Into Impasse" Journal of Collective Negotiations in the Public Sector Summer, 1989 V.18 N.3 pp. 241-252 An evaluation of Florida's collective bargaining system. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: USE OF BARGAINING TEAMS/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF

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**Mahoney, William G.** "Time For Decision" (labor law) Transportation Practitioners Journal Spring, 1989 V.56 N.3 pp. 311-312 This article discusses the legal battles between the Interstate Commerce Commission (ICC) and the unions representing railroad employees regarding the ICC's refusal not to impose employee protective conditions in the sale of a railroad line. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

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V.18 N.2 pp. 97-102 This article is a case study investigating two theories of collective bargaining: "getting to yes," and "win/win."  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY:  
GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-  
NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- PREP/ / NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- COOP TECHNIQUES

**Mandell, Marvin B.** "Estimating the Mediating Effect of Intervening Variables in Pooled Cross-Sectional and Time Series Design Model Specification and Estimation Procedures" Evaluation Review April, 1989 V.13 N.2 pp. 174-200 This article, through the use of statistical analysis, examines and provides formulas for examining why laws will have different effects in different populations. This article is helpful to the public policy maker who is interested in studying the effects of the same law on different populations. SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ QUALITY CONTROL

**Marcotte, Paul** "Avoiding Courts" ABA Journal Fall, 1989 V.76 pp. 27(1) A comparison of cases sent to arbitration with those handled by courts and whether or not arbitration actually saves the public time or money. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ SELECTION OF APPROPRIATE PROCESS

**Marcus, Paula** "Building a Construction Contract that Works: The Owner's Rolé" Arbitration Journal March, 1989 V.44 N.1 pp. 3-14 Practical advice to owners of construction projects and attorneys on how to minimize the risks of disputes and liabilities inherent in construction contracting. NEG: USE OF BARGAINING TEAMS/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: DRAFTING SETTLEMENT AGREEMENTS/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ ECONOMIC ADVANTAGES OF ADR

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Marks, Bruce S. "Dispute Resolution in the Space Age: Forensic Applications of Earth Observation Satellite Data Through Adaptation of Technical Standards Similar to DNA Fingerprinting Protocols" Ohio State Journal on Dispute Resolution Fall, 1989 V.5 N.1 pp. 19-73 Technologically advanced evidentiary tools such as satellite surveillance and DNA fingerprinting can be coupled with the efficiency of ADR to create a situation where disputes are efficiently resolved. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ ECONOMIC ADVANTAGES OF ADR/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

Marriott, A.L. "Arbitrating International Commercial Disputes in the United Kingdom" Arbitration Journal June, 1989 V.44 N.3 pp. 3-13 This article explores the developments in English arbitration law since the enactment of the U.K. Arbitration Act of 1979, and offers recommendations to make London a more attractive locale for international commercial arbitrations. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ REQUIREMENTS: CONTRACTURAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

Marshall, Enid A. "Charterparty Arbitration Clause Not Incorporated into Bill of Lading" (Great Britain) Journal of Business Law May, 1989 pp. 249-252 A discussion of three areas of British arbitration law: 1) The incorporation of charterparty arbitration clauses into bills of lading; 2) The approach to be adopted by the Court of Appeals in application for leave to appeal from the award of a judge-arbitration; and 3) the permanent stay of arbitration proceedings for failure to comply with a court order under, the Arbitration Act 1950, § 12(6)(f). ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB

## ***JOURNAL ON DISPUTE RESOLUTION***

AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER:  
COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS:  
CONTRACTURAL CLAUSES/ COMPLIANCE ISSUES

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**Martin, Joshua W., III** "Alternative Dispute Resolution: A Reaction to the Alleged Need for 'Tort Reform?'" (Tort Reform, Anyone?) Delaware Lawyer January, 1989 V.7 N.2 pp. 44(5) This article discusses the possible need to find practical alternatives to traditional adjudication in the area of tort law reform. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: OTHER TORTS

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**McCauliff, C.M.A.; Tyms, Robert C.** "New Protections in Arbitrating Public Securities Disputes in the Wake of McMahon: Foregone Conclusion or Will-o'-the-Wisp?" Villanova Law Review February, 1989 V.34 N.1 pp. 25(36) An examination of the arbitrability of implied causes of action arising under section 10(b) of the Securities Exchange Act, court-ordered arbitration of Exchange Act claims, and present provisions for securities arbitration, with suggestions for improvement of securities arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES/ JUDICIAL PARTICIPATION

**McCubbin, Patricia Ross** "Consensus Through Mediation: A Case Study of the Chesapeake Bay Land Use Roundtable and the Chesapeake Bay Preservation Act" The Journal of Law & Politics Summer, 1989 V.5 N.4 pp. 827-863 The note discusses mediation generally, retraces legislative history of the Chesapeake Bay Preservation Act, and compares and contrasts the Roundtable process as building a consensus for legislation. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: ENVIRONMENT/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ LEGISLATION

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N.2 pp. 431-482 This article advances the theory that legislation after administrative agencies begin a change in their course from their policy objective is not an effective means of control of such agencies as requiring political input into the decision-making process prior to the change in policy.

NEG: W/ OR W/O ASSIST OF 3D-PARTY  
NEUTRAL-THEORY/ ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:  
ENVIRONMENT/ SUBJ MATTER: GOV'T

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NEG: W/ OR W/O ASSIST OF 3D-PARTY  
NEUTRAL-THEORY/ MED: RELATED PROCESSES-GENERAL /  
MED: COUNSELING/ INST NATURE: GENERAL/ SUBJ  
MATTER: GENERAL

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NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/  
MED: RELATED PROCESSES-GENERAL / NON-BINDING  
RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY,  
COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE  
SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC  
ADVANTAGES OF ADR/ FAIRNESS/ JUDICIAL PARTICIPATION

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ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB:  
PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ ARB:  
FINAL OFFER ARB/ INST NATURE: GOV'T ENTITIES/ SUBJ  
MATTER: GOV'T/ SUBJ MATTER: TAX

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**McLachlan, Don** "Civil Arbitration: A Worthwhile Exercise?" (New South Wales) Law Society Journal October, 1989 V.27 N.9 p. 19 The passage of the Arbitration (civil actions) Act of 1983 in Australia seems to be a great success since 17,000 civil actions have been disposed of at little cost to the government and with re-hearing rates which are considerably lower than those in other countries. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ REQUIREMENTS: STATUTORY OR RULES

**McMillion, Rhonda** "Federal Agencies Urged to Negotiate" ABA Journal December, 1989 V.75 p. 93 The ABA gathers support from various senators to use ADR to improve agency disputes. ARB:

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BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST  
NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GOV'T/  
TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/  
ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

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**McNew, Dora L.** "Blocking Laws and Secrecy Provisions: Do International Negotiations Concerning Insider Trading Provide a Solution to Conflicts in Discovery Rules" California Western Law Review Winter, 1989 V.26 N.1 pp. 103-122 This article addresses the necessity for competent early negotiation with foreign countries to facilitate discovery procedures, jurisdictional issues, and forum determination in international securities and investment cases. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: CULTURAL CONSIDERATIONS/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: SECURITIES/ COMPARISONS: CROSS-CULTURAL/ SUBPOENA AND DISCOVERY

**McWilliams, Joan H.** "ADR Contract Clauses" Colorado Lawyer May, 1989 V.18 N.5 pp. 867(3) This article discusses the advantages to a corporation of using ADR clauses in its agreements, such as protection of confidential information, perservation of long-term relationships, and increased goodwill, and then introduces and analyzes basic ADR models and their characteristics. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: COMMERCIAL/ SETTLEMENT: PRESSURES TO SETTLE/ COMPLIANCE ISSUES

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**Medina Romero, Jose Roberto** "Brief Reflections on the Practice of Labor Arbitration in El Salvador" (Goal VIII Conference of the American Bar Association: Papers on Labor Arbitration in Central America) University of Miami Inter-American Law Review Fall, 1989 V.21 N.1 pp. 169-174 This article discusses compulsory arbitration in collective labor disputes and preservation and protection of the right to strike. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ARB: MANDATORY, COURT-ANNEXED- GENERAL

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**Melis, Werner** "Austria as a Neutral Site for International Commercial Arbitration" (Appendix is text of Trilateral Agreement Involving the American Arbitration Association, the Czechoslovak Chamber of Commerce and Industry, and the Austrian Federal Economic Chamber) Arbitration Journal December, 1989 V.44 N.4 pp. 31-39 This article describes international commercial arbitration in Austria. SUBJ MATTER: COMMERCIAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ ARB: SELECTION OF ARBITRATOR

**Meltsner, Michael; Schrag, Philip G.** "Negotiating Tactics for Legal Services Lawyers" (reprinted from September 1973 issue of this review) Clearinghouse Review November, 1989 V.23 N.7 pp. 858-861 This article describes successful negotiating tactics for use by attorneys. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND

TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES  
AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- OTHER/ NEG: PSYCH CONSIDERATIONS

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University of British Columbia Law Review Summer, 1989 V.23 N.2  
pp. 437-440 This book is an overview of international commercial  
arbitration with a strong emphasis on the British Columbia International  
Arbitration Act, which is based on UNCITRAL (United Nations  
Commission on International Trade Law). ARB: BINDING ARB-  
GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER:  
INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS:  
CROSS-CULTURAL/ LEGISLATION

**Merry, Sally Engle** "The Discourses of Mediation and the Power of  
Naming" Yale Journal of Law and the Humanities May, 1989 V.2  
N.1 pp. 1-36 This article concerns an ethnographic study of the courts'  
domination over people by the process of naming people, acts, and events  
during mediation. MED: RELATED PROCESSES-GENERAL /  
MED: PRETRIAL CONF/ MED: PSYCH FACTORS/ INST  
NATURE: GENERAL/ TYPE OF SOURCE: CASE STUDY /  
RESEARCH REPORT/ JUDICIAL PARTICIPATION

**Mika, Harry; Cole, Kimberly; Aylward, Annmarie** "Mediation  
Interventions and Restorative Potential: A Case Study of Juvenile  
Restitution" Journal of Dispute Resolution Annual, 1989 V.1989  
pp. 89-106 Mediation is proposed as a worthwhile method for  
determining the requisite restitution that juvenile offenders should be  
required to make to the victims of their crimes. NEG: W/ OR W/O  
ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O  
ASSIST OF 3D-PARTY NEUTRAL-THEORY/ MED:  
ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/  
MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER:  
CRIMINAL

**Miller, John B.; Duca, Lauren E.** "Forced Alternative Dispute  
Resolution: Poor Policy, Bad Law" Boston Bar Journal January, 1989  
V.33 N.1 pp. 17(5) This article discusses favored participation in  
ADR, the resulting substantial risk to constitutional rights, well developed  
rules of evidence and privilege, and the development of rules of law that  
have traditionally guided our system of justice. MED: RELATED

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PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: PRIVATE JUDGING/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS

**Miller, R. Alan** "Hindsight - Litigation that Might be Avoided" Army Lawyer February, 1989 pp. 59-61 A discussion of methods to avoid contract litigation and techniques to use in case contract litigation cannot be avoided. NEG: EVAL OF OPTIONS AND OFFERS/ DISPUTE PREVENTION/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: CONTRACTURAL CLAUSES/ ORGANIZATION POLICIES AND RULES/ ROLE OF LAWYERS

**Millhauser, Marguerite S.** "The Next Step in Alternative Dispute Resolution: Building and Effective Dispute Handling System within the Corporation" Corporate Counsel's Quarterly October, 1989 V.5 N.4 pp. 72-80 This article proposes an outline for plan of action to be followed by a company to use in developing an effective dispute handling system. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CORPORATE/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

**Milligan-Whyte, John; Veed, Mary Cannon** "Bermudian, English and American Reinsurance Arbitration Law and Practice and Alternative Dispute Resolution Methods" Tort & Insurance Law Journal Fall, 1989 V.25 N.1 pp. 120-149 A comparison and introduction to alternative dispute resolution methods. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ NON-BINDING RECOMMENDATION PROC-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ TYPE OF SOURCE: BIBLIOGRAPHY/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION

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NEUTRAL-GENERAL/ NEG: USE OF BARGAINING TEAMS/  
MED: RELATED PROCESSES-GENERAL/ MED: REP OF A  
CLIENT DURING PROCESS/ ARB: OBTAINING AND ENFORCING  
AGREEMENT TO ARB/ SUBJ MATTER: GOV'T/ SUBJ MATTER:  
HOSPITALS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS:  
STATUTORY OR RULES

**Mitchell, Ann; Garwood, Fiona** "Conciliation and Children"  
(Conciliation Project Unit Report in Great Britain) Family Law July,  
1989 V.19 pp. 284-286 A discussion of the issues involved in  
including children in conciliation procedures. MED: PUBLIC  
POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/  
MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC  
REL)/ ROLE OF LAWYERS

**Mitchell, Daniel J.B.** "Will Collective Bargaining Outcomes in the  
1990s Look Like Those of the 1980s?" (Industrial Relations Research  
Association Spring Meeting April 5-7, 1989) Labor Law Journal  
August, 1989 V.40 N.8 pp. 490-496 The economic conditions of the  
1980's led to collective bargaining concessions and a decrease in union  
membership which will continue except in a few industries in the 1990's.  
SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-  
MANAGEMENT (UNIONS)/ SUBJ MATTER: LABOR- GENERAL/  
SUBJ MATTER: LABOR- MANAGEMENT (UNIONS)

**Mnookin, Robert H.** "Beyond Litigation" Stanford Lawyer Spring-  
Summer, 1989 V.23 N.2 pp. 4(8) This is an interview with  
Professor Robert H. Mnookin regarding his involvement as an arbitrator in  
the 1987 IBM-Fujitsu dispute. ARB: MANDATORY,  
COURT-ANNEXED- GENERAL/ FAIRNESS

**Mnookin, Robert H.; Wilson, Robert B.** "Rational Bargaining and  
Market Efficiency: Understanding Pennzoil v. Texaco" (Symposium on  
the Law and Economics of Bargaining) Virginia Law Review March,  
1989 V.75 N.2 pp. 295-334 This article focuses on Pennzoil v.  
Texaco in addressing issues of the economics of conflict resolution.  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- ECONOMIC/  
NEG: USE OF AGENTS/ SETTLEMENT: PRESSURES TO SETTLE

**Moerdler, Charles G.** "Deregulation - The United States Experience"  
Hofstra Labor Law Journal Spring, 1989 V.6 N.2 pp. 177-198



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The author reviews the effect that deregulation had on labor-management relations and suggests that both labor and management must open up channels of communication for constructive relations to develop without relying on external regulatory and legislative interventions. SUBJ

MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: LABOR- GENERAL/ SUBJ MATTER: LABOR- MANAGEMENT (UNIONS)/ SUBJ MATTER: REGULATORY

**Mok, Young-Joon** "The Principle of Reciprocity in the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958" Case Western Reserve Journal of International Law Summer, 1989 V.21 N.2 pp. 123-157 This article covers use of international reciprocity agreements to enforce arbitration awards and focuses on their role in the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Montgomery, Edward; Benedict, Mary Ellen** "The Impact of Bargainer Experience on Teacher Strikes" (Pennsylvania) Industrial and Labor Relations Review April, 1989 V.42 N.3 pp. 380-392 Statistical analysis conducted using data on Pennsylvania public schools for the period 1978-84 concluding that the duration of teacher strikes was drastically reduced when the chief or principal bargainer of one or both sides was experienced in the art of negotiation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: USE OF AGENTS/ INST NATURE: GOV'T ENTITIES / SUBJ MATTER: GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

**Montgomery, Bridget** "The European Community's Draft Fifth Directive: British Resistance and Community Procedures" Comparative Labor Law Journal Spring, 1989 V.10 N.3 pp. 429-451 This article predicts ultimate failure for the European Commission's attempts to harmonize worker participation in management due to unavoidable policy conflicts with well-established principles of British labor law. INST

NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/  
SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC  
POLICY/ SETTLEMENT: PRESSURES TO SETTLE/  
COMPARISONS: HISTORICAL/ POWER IMBALANCE

**Monzon, Maximo Daniel; Salas, Juan Manuel** "The Law and Practice of Labor Arbitration in Argentina" University of Miami Inter-American Law Review Fall, 1989 V.21 N.1 pp. 185-196 Labor unions in Argentina are showing a preference towards arbitration as a means of resolving labor disputes. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ AGREEMENT ON PROCEDURE/ PROVISIONAL REMEDIES/ SELECTION OF APPROPRIATE PROCESS

**Moore, Christopher W.** "Mediating and Facilitating Natural Resource Disputes" Colorado Lawyer May, 1989 V.18 N.5 pp. 893(3) The author argues that environmental disputes are well-suited to mediation and facilitation processes, and believes that mediators can assist lawyers in obtaining high-quality settlements. MED: RELATED PROCESSES-GENERAL / MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: ENVIRONMENT

**Moore, Chris; Gibson, Kevin** "The 'Alternatives' in Alternative Dispute Resolution" Colorado Lawyer September, 1989 V.18 N.9 pp. 1751(4) This article identifies and discusses the different forms of alternative dispute resolution and seeks to provide some guidelines in assessing which type is most appropriate given the circumstances of a particular case. 3RD PARTY: NEUTRALITY/ ECONOMIC ADVANTAGES OF ADR/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: PRIVATE JUDGING/ ARB: JUDICIAL REVIEW

**Moran, James** "Public Policy Exception in Judicial Review of Arbitration Awards" William Mitchell Law Review Summer, 1989 V.15 N.3 pp. 767-791 This article examines the standards for reviewing arbitration awards, arguing that public policy exceptions should be drawn narrowly. ARB: BINDING ARB- GENERAL/ ARB:

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**Morrow, Margaret M.** "Alternative Dispute Resolution: Applying the Gentler Arts of Reconciliation and Accommodation" Los Angeles Lawyer March, 1989 V.12 N.1 pp. 6(4) This article generally discusses the benefits of alternative dispute resolution and asks lawyers to make more use of ADR for both the client's and the profession's benefit. NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: CLIENT REP/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

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background and historical perspective of the arbitration process, omission of a detailed discussion of possible disadvantages of arbitration, and failure to identify the classifications for the construction panel. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: BOOK REVIEW

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National Labor Relations Act's adjustment of labor disputes and the Act's  
specific provisions defining certain labor practices as unfair and charging  
the NLRB with policing these practices. ARB: BINDING ARB-  
GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T  
ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:  
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OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR  
W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY/ NEG: TACTICS,  
STRATEGIES AND TECHNIQUES- GENERAL/ NEG: W/ OR W/O  
ASSIST OF 3D-PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/  
NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE  
DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-  
FALSE DEMANDS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/  
SUBJ MATTER: LABOR-GENERAL/ NEG: W/ OR W/O ASSIST OF  
3D-PARTY NEUTRAL- ECONOMIC/ NEG: W/ OR W/O ASSIST OF  
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207(23) The quality of justice dispensed in formal litigation and ADR is  
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SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY /  
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**Nowikowski, Eileen** "Public Policy Exception to the Enforcement of Labor Arbitration Awards" Michigan Bar Journal July, 1989 V.68 N.7 pp. 626(6) In a thorough analysis of United Paperworkers International v. Misco, Inc., 108 S.Ct. 364 (1987), the author suggests that the historically unclear limits to the public policy exception to enforcement of awards in labor arbitration were defined to some extent by the decision, but because no precise test was included, federal courts have subsequently treated the exception in a non-uniform manner. ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ COMPARISONS: HISTORICAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

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September 1, 1985) Family Law July, 1989 V.19 pp. 252-255  
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V.102 N.171 p. 1/c. 4 A female law professor at Boalt Hall Law  
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ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

**The TriBar Opinion Committee** "Second Addendum to Legal Opinions to Third Parties: An Easier Path" The Business Lawyer February, 1989 V.44 N.2 pp. 563-574 Lawyers should make opposing parties aware of the effects on remedies of resorting to an arbitration clause rather than going to trial. ARB: FINAL OFFER ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ FISS/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

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involving the enforcement of arbitration awards.      ARB: BINDING  
ARB- GENERAL/    ARB: JUDICIAL REVIEW/    INST NATURE:  
GENERAL/    INST NATURE: PRIVATE, PROFIT-MAKING/    SUBJ  
MATTER:      LABOR-GENERAL/      SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION

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**Trowbridge, Alexander B.**    "Arbitration in Our Litigious Society" Arbitration Journal    September, 1989    V.44    N.3    pp. 58(3)    Opting for arbitration instead of litigation helps assure the nation's limited resources are allocated efficiently.      ARB: MANDATORY, COURT-ANNEXED-    GENERAL/      ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/    ARB: FEES AND FUNDING OF ARBITRATOR

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**Tupman, W. Michael**    "Challenge and Disqualification of Arbitrations in International Commercial Arbitration" International and Comparative Law Quarterly    January, 1989    V.38    N.1    pp. 26-52    This article describes the process of disqualification of international commercial arbitrators and discusses ways in which challenges can be made and the standards by which such challenges are decided.      ARB: BINDING  
ARB- GENERAL/    ARB: SELECTION OF ARBITRATOR/    ARB:

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ASSIST OF 3D-PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS,  
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